

DANNY G. YOUNG,
Plaintiff(s),
vs.
CHARLES D. LEE, et al.,
Defendant(s).

)
)
)
)
)
)
)
)
)
)

No. C 06-1591 CRB (PR)

**ORDER OF DISMISSAL WITH
LEAVE TO AMEND**

Plaintiff's request for a TRO and/or preliminary injunction is denied for failure to satisfying the notice requirements of Federal Rule of Civil Procedure 65. Prior to granting a preliminary injunction, notice to the adverse party is required. Fed. R. Civ. P. 65(a)(1). A motion for preliminary injunction therefore cannot be decided until the parties to the action are served, and they have not yet been served here. See Zepeda v. INS, 753 F.2d 719, 727 (9th Cir. 1983). A TRO may be granted without written or oral notice to the adverse party or that party's attorney if: (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will

1 result to the applicant before the adverse party or the party's attorney can be
2 heard in opposition, and (2) the applicant's attorney (plaintiff himself in this case,
3 as he proceeds pro se) certifies in writing the efforts, if any, which have been
4 made to give notice and the reasons supporting the claim that notice should not
5 be required. Fed. R. Civ. P. 65(b). Plaintiff has not satisfied both requirements.

6 The action is DISMISSED with leave to file a complaint within 30 days of
7 this order. The pleading must be simple and concise and must include the caption
8 and civil case number used in this order and the words COMPLAINT on the first
9 page. Failure to file a proper complaint within the designated time will result in
10 the dismissal of this action.

11 SO ORDERED.

12 DATED: July 6, 2006



13
14 CHARLES R. BREYER
United States District Judge